

Documents tabled on 6 February 2007:

National Interest Analysis [2007] ATNIA 4

with attachment on consultation

Treaty between the Government of Australia and the Government of the Democratic Republic of Timor-Leste on Certain Maritime Arrangements in the Timor Sea, done at Sydney on 12 January 2006

[2006] ATNIF 1

Background information:

Country political brief and country fact sheet

List of other treaties with East Timor

List of treaties of the same type with other countries

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

**Treaty between the Government of Australia
and the Government of the Democratic Republic of Timor-Leste
on Certain Maritime Arrangements in the Timor Sea,
done at Sydney on 12 January 2006
[2006] ATNIF 1**

Nature and timing of proposed treaty action

1. It is proposed to bring into force the Treaty between the Government of Australia and the Government of the Democratic Republic of Timor-Leste on Certain Maritime Arrangements in the Timor Sea (CMATS Treaty). The Treaty was signed on 12 January 2006 in Sydney. The Government aims to bring the CMATS Treaty into force as soon as possible.
2. The CMATS Treaty will enter into force when Australia and East Timor exchange notes pursuant to Article 13 confirming that all domestic requirements to give effect to the Treaty have been met.
3. It is intended to bring the CMATS Treaty into force at the same time as the Agreement between the Government of Australia and the Government of the Democratic Republic of Timor-Leste Relating to the Unitisation of the Sunrise and Troubadour Fields [2003] ATNIF 6 (Sunrise IUA).

Overview and national interest summary

4. Once in force, the CMATS Treaty will allow the exploitation of the Greater Sunrise gas and condensate reservoirs to proceed without prejudicing the position of either country on their maritime boundary claims. Both Australia and East Timor will be bound by the Treaty to refrain from asserting or pursuing their claims to rights, jurisdiction or maritime boundaries, in relation to the other, for 50 years. The Joint Petroleum Development Area (JPDA) established pursuant to the Timor Sea Treaty [2003] ATS 13 is not affected by the CMATS Treaty or the Sunrise IUA. Consistent with the CMATS Treaty and associated side-letters, Australia will be able to continue regulating and authorising petroleum activities outside of the JPDA and south of the 1972 Australia-Indonesia seabed boundary.
5. It is in Australia's interest to create a long-term stable legal environment for the exploration and exploitation of petroleum resources in the Timor Sea between Australia and East Timor, without prejudicing either country's maritime claims in the Timor Sea.

Reasons for Australia to take the proposed treaty action

6. The Timor Sea between northern Australia and East Timor contains proven petroleum resources in the seabed and subsoil. Several petroleum reservoirs extend across the eastern boundary of the JPDA (the Sunrise and Troubadour fields, collectively known as 'Greater Sunrise') and were the subject of the Sunrise IUA.

7. The CMATS Treaty is intended to sit alongside the Timor Sea Treaty and Sunrise IUA. Together they underpin stable legal and fiscal regimes for the exploration and exploitation of petroleum resources in the Timor Sea between Australia and East Timor to the benefit of both countries.

8. The formal apportionment of the Greater Sunrise field under the Sunrise IUA and Timor Sea Treaty was that 20.1% lies in the JPDA and 79.9% is apportioned to Australia, reflecting the geographical location of the fields. This means that, according to East Timor's 90% share of petroleum within the JPDA under the Timor Sea Treaty, East Timor would receive revenues from 18.1% of the Greater Sunrise resource. In the interests of achieving a stable basis for the exploitation of Greater Sunrise for the benefit of both countries, and with regard to our strategic interests in the long term economic stability of East Timor, Australia has agreed under the CMATS Treaty to share equally (50:50) the upstream government revenues from the resource.

9. The Greater Sunrise field is comprised of the Sunrise and Troubadour gas fields and straddles the eastern border of the JPDA. It contains an estimated 295 million barrels of condensate and 8.4 trillion cubic feet (238 billion cubic metres) of gas.

10. Exploitation of the Greater Sunrise resource, and the additional revenue provided under this Treaty, will assist in securing East Timor's development and economic stability. The stable economic development of East Timor is in Australia's interests. According to domestic legislation in East Timor, the revenue from Greater Sunrise would be paid to East Timor's Petroleum Fund. The Fund establishes a means for East Timor to derive a sustainable source of income over the long-term. Once the Greater Sunrise project proceeds, the CMATS Treaty could result in additional revenue for East Timor, over the life of the project, of as much as US\$4 billion above what it could be expected to receive from the apportionment under the Sunrise IUA. The exact benefit to East Timor and Australia will depend on a range of factors including the economics of the project and prevailing market prices for oil and gas.

11. Both Australia and East Timor will be bound by the Treaty to refrain from asserting or pursuing their claims to rights, jurisdiction or maritime boundaries, in relation to the other, for a substantial period. This adds to the stability of the legal regime governing exploitation of Greater Sunrise.

12. Consistent with the CMATS Treaty and associated side-letters, Australia will continue regulating and authorising petroleum activities outside of the JPDA and south of the 1972 Australia-Indonesia seabed treaty.

13. Other elements of the CMATS Treaty include: an independent assessment process at the request of either Party to review the reconciliation of the revenue sharing; East

Timor continuing to exercise water-column (fisheries) jurisdiction within the JPDA; and the establishment of a Maritime Commission to constitute a focal point for bilateral consultations on Timor Sea issues.

14. The CMATS Treaty implements Australia's obligations under Articles 74 and 83 of the United Nations Law of the Sea Convention [1994] ATS 31, on exclusive economic zone and continental shelf delimitation, to make every effort to enter into provisional arrangements of a practical nature which are without prejudice to the final delimitation.

15. The joint venture partners for Greater Sunrise are Woodside Energy (operator), Shell, ConocoPhillips and Osaka Gas. Woodside has stated that the project is currently stalled pending entry into force of the Sunrise IUA and CMATS Treaty. Production from the field is not likely to occur for several years following entry into force of the CMATS Treaty and Sunrise IUA due to the significant lead time in implementing production plans.

Obligations

16. Article 3 of the CMATS Treaty would amend the Timor Sea Treaty so that it remains in force for the duration of the CMATS Treaty. According to Article 7, the Timor Sea Treaty and Sunrise IUA, together with the CMATS Treaty, would govern the rights and obligations of Australia and East Timor for the exploration and exploitation of the Timor Sea.

17. Article 4 would impose a moratorium on each Party from asserting or pursuing by any means their claims to sovereign rights and jurisdiction and maritime boundaries, in relation to the other. It would include the right of a Party to continue activities, including the regulation and authorisation of existing and new activities, in areas in which its domestic legislation at a specific date authorised petroleum activities. The Parties agreed at signature that Australia had legislation on that date that authorised petroleum activities, in relation to the seabed and subsoil, for areas outside the JPDA and south of the 1972 Australia-Indonesia seabed boundary. The Parties would also be obligated to not raise in any international organisation any matter relating to the delimitation of maritime boundaries in the Timor Sea, nor commence any international dispute settlement proceedings against the other that could result in issues or findings relevant to maritime delimitation in the Timor Sea.

18. Article 5 would oblige the Parties to share equally upstream revenue derived from production of the Greater Sunrise resource. The Article (paragraphs 3 to 6) sets out the details of what constitutes the revenue component for each Party and how it will be determined. The Article (paragraphs 7 to 10) then sets out a procedure of notification of revenue amounts received each quarter and when and how those amounts are to be paid from Australia to East Timor. As the domestically applied taxation rates in each country have a large influence on the total upstream revenue received from the project, each Party would be obliged to inform the other of changes to its taxation policies that would have an impact on the revenue derived from Greater Sunrise, and if requested, consult to resolve the matter. Paragraph 12 provides that the CMATS Treaty, Timor Sea Treaty and Sunrise IUA, and any other documents relating to those treaties existing at the time of the entry into force of the CMATS Treaty, constitute the final financial settlement concerning the exploration and exploitation of the Timor Sea.

19. Article 6 and Annex I provide for an independent assessment process, at the option of either Party, to review the revenue calculations made under Article 5. Where an assessment process was used, the Parties would be obliged to implement the assessor's conclusions. Disputes over the CMATS Treaty more generally are to be settled by negotiations or consultations (Article 11).

20. Article 8 formalises the arrangements over water-column (including fisheries) jurisdiction in the JPDA that are, in practice, already in place. Pending a permanent delimitation of the exclusive economic zone, Australia has, without prejudice to its claim, exercised water column jurisdiction only up to the point of equidistance between the coastlines of the two countries which corresponds with the southern edge of the JPDA. Article 8 does not result in a formal maritime delimitation of the exclusive economic zone boundary between the two countries. Pending such delimitation, East Timor will continue to exercise water-column jurisdiction within the JPDA.

21. Article 9 will establish a Maritime Commission constituted by Australia and East Timor, which will facilitate bilateral consultations on maritime matters of interest to the Parties, including on maritime security, the protection of the marine environment and management of natural resources.

22. Under Article 10, the Parties have agreed to not re-determine the apportionment ratio of the Greater Sunrise field (discussed in paragraph 8 above).

23. Article 12 provides that the period of the CMATS Treaty is 50 years from its entry into force, or five years after Greater Sunrise exploitation ceases, whichever is the earlier. If the CMATS Treaty is terminated, and production subsequently takes place, the treaty would automatically come back into force.

Implementation

24. No legislation is required to implement the obligations of the CMATS Treaty at this stage. All of the provisions can be implemented through executive and administrative actions by the Government. Once production of Greater Sunrise commences, appropriation legislation will be required in order to transfer revenue to East Timor in accordance with Article 5.

25. No changes to the existing roles of the Commonwealth or the States and Territories will arise as a consequence of implementing the CMATS Treaty.

Costs

26. The costs for implementing the administrative arrangements under the CMATS Treaty can be met from existing resources. Once Greater Sunrise is being exploited, the CMATS Treaty will involve transfers of revenue to East Timor from Australia to ensure East Timor's share is increased to half of the total upstream revenues. It is difficult to predict the amounts this will involve due to the uncertain economics of the project and the variable market prices of oil and gas. On Government predictions, it will involve transfers to East Timor of around \$4 billion over the expected 30-year life of the project.

Regulation Impact Statement

27. The Office of Regulation Review (Productivity Commission) has been consulted and confirms that a Regulation Impact Statement is not required.

Future Treaty Action

28. It is proposed to bring the Sunrise IUA into force at the same time as the CMATS Treaty.

29. The CMATS Treaty does not deal expressly with amendment, but, in accordance with international treaty law, it could be amended by agreement between the Parties. Such amendments would be subject to Australia's domestic treaty processes before entering into force.

30. No future legally binding instruments connected with the CMATS Treaty are envisaged.

Withdrawal or Denunciation

31. According to Article 12, the CMATS Treaty may only be terminated by a Party in two circumstances: if a development plan for Greater Sunrise has not been approved in accordance with the Sunrise IUA within six years of the entry into force of the Treaty; or production from Greater Sunrise has not commenced within ten years of the entry into force of the Treaty. If either of these circumstances occur, and a Party notifies the other that it wishes to terminate the Treaty, then the Treaty ceases to be in force three months following notification. A termination initiated by the Australian Government would be subject to the domestic treaties process.

32. Under paragraph 4 of Article 12, several provisions would survive termination of the Treaty.

Contact Details

Sea Law, Environment Law and Antarctic Policy Section
International Legal Branch
Department of Foreign Affairs and Trade.

**Treaty between the Government of Australia and the Government of the
Democratic Republic of Timor-Leste on Certain Maritime Arrangements in the
Timor Sea, done at Sydney on 12 January 2006
[2006] ATNIF 1**

CONSULTATION

1. The Treaty on Certain Maritime Arrangements in the Timor Sea is unlikely to have any general impact on businesses or Government agencies in Australia, other than facilitating the development of Greater Sunrise.
2. States and Territories were consulted through the Commonwealth-State/Territory (Officials') Standing Committee on Treaties (SCOT). The CMATS Treaty was included on the treaties schedules sent to SCOT representatives before their meetings in September 2004, February and July 2005, and February and August 2006. No comments with respect to this treaty were registered by this Committee.
3. Commonwealth agencies, led by the Department of Foreign Affairs and Trade (DFAT) and including the Attorney-General's Department, Department of Industry, Tourism and Resources (DITR), Treasury and the Department of Finance and Administration, participated actively in eight rounds of negotiations from April 2004 until November 2005.
4. Inter-departmental committee meetings were held regularly between DFAT, the Department of the Prime Minister and Cabinet, DITR, Department of Finance and Administration, Attorney-General's Department and the Treasury. Separate consultations were held with the Department of Agriculture, Fisheries and Forestry regarding Article 8.
5. Consultations regarding the negotiations were held on 15 December 2005 with the Joint Venture partners of the Greater Sunrise project (Woodside, ConocoPhillips, Shell and Osaka Gas) at the Department of Industry, Tourism and Resources. Regular contact is maintained with the Greater Sunrise operator, Woodside, by DFAT and DITR regarding the development of negotiations.
6. On 1 December 2005, Mr Downer stated in Parliament that negotiations with East Timor on the Treaty had finished. Immediately after the Treaty was signed in Sydney on 12 January 2006 the Treaty was made available to the media and published on the DFAT web site along with a comprehensive fact sheet.

Political Brief on East Timor

Political Situation

1. East Timor achieved independence as The Democratic Republic of Timor-Leste on 20 May 2002. Prior to that, East Timor was subject to Portuguese colonisation that began in the early 16th century, Japanese occupation during World War Two and, finally, Indonesian invasion and annexation in 1975. Independence followed the August 1999 United Nations (UN)-sponsored ballot. Before 1999, East Timor's only other attempt at formal independence was the late-1975 declaration of independence by the Fretilin party, in the brief hiatus between Portuguese and Indonesian rule.

2. Prime Minister José Ramos-Horta is the Head of Government (replacing Mari Alkatiri on 14 July 2006) and President Xanana Gusmão has been the Head of State since independence. Fretilin, the dominant political party, holds 55 out of 88 seats in the Parliament. National presidential and parliamentary elections are scheduled to take place in 2007.

3. Since 1999, there have been five consecutive UN missions operating in East Timor: the United Nations Mission in East Timor (UNAMET); the United Nations Transitional Administration in East Timor (UNTAET); the United Nations Mission of Support to East Timor (UNMISSET); the United Nations Office in East Timor (UNOTIL); and, currently, the United Nations Integrated Mission in East Timor (UNMIT). UNMIT's mandate includes a focus on policing functions and police training, political and community reconciliation, assistance for the upcoming national elections and humanitarian relief services.

4. Australia contributes significantly to UNMIT, especially through the provision of police. Australia also leads the international security forces that were invited by the East Timorese Government to help restore stability following the unrest in April/May 2006. The international security forces operate independently from but complementary to UNMIT. Despite the restoration of stability, the security situation is likely to remain fragile in the lead up to the 2007 national elections and beyond.

Economic Situation

5. East Timor's economy has shown positive signs recently, with Gross Domestic Product (GDP) growth of 2.3% in 2005 (an increase from 0.3% in 2004). The International Monetary Fund (IMF) estimated GDP growth would be a modest 0.9% in 2006. GDP growth can be attributed to increased hydrocarbon revenues from the Timor Sea and a rebound in world coffee prices. The development of public, private and civil sectors (especially areas such as governance and labour-force capacity), which is required to facilitate broad-based economic growth, will be key long-term challenges for the East Timorese Government and international donor community.

6. In 2005-06, East Timor ranked as Australia's 110th largest trading partner, with total merchandise trade valued at around \$18.5 million. Australian exports to East Timor were valued at \$18.0 million.

Bilateral Relationship

7. Australia was in the front line of support for East Timor's transition to independence, including our role in the first UN monitoring mission, UNAMET. Australia also led the multinational international force to East Timor (INTERFET), which restored security in East Timor following the 1999 post-ballot violence, and played a leading role in UNMISSET. Since 1999 Australia has provided over \$3 billion in security, policing, development and other assistance.

8. As a close neighbour, Australia is committed to assisting East Timor's development and will continue to provide core support to facilitate East Timor's transition to a stable and democratic nation. The overarching goal of Australia's future development cooperation program is to assist the East Timorese Government achieve stability and prosperity. Australia's development assistance in 2006-07 will be at least \$44 million. Australia's development cooperation strategy focuses on three priorities - a government that can budget for and deliver basic services to its people, particularly those in rural areas; a professional police force; and a legal and judicial system that supports law and order and a secure environment. Australia also provides capacity building assistance for the East Timor police force and is a lead donor in the development of the East Timor Defence Force.

9. As a sign of Australia's commitment to helping strengthen East Timor's security and stability, Australia and East Timor have signed: a Memorandum of Understanding (MOU) in October 2006 on security arrangements within the Joint Petroleum Development Area; an MOU on Cooperation to Combat International Terrorism in August 2003; and two MOUs on combating illegal immigration and people smuggling in February 2002.

February 2007



EAST TIMOR

Fact Sheet

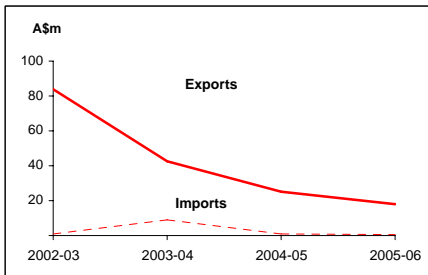
General information:

Fact sheets are updated biannually; May and September

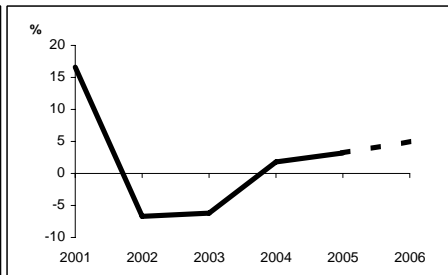
Capital:	Dili	Head of State:	
Surface area:	14,874 sq km	H.E. President Kay Rala Xanana Gusmao	
Official languages:	Portuguese, Tetum	Head of Government:	
Population:	0.9 million (2005)	Prime Minister Dr José Ramos-Horta	
Exchange rate:	A\$1 = US\$0.75088 (July 2006)		

Recent economic indicators:	2001	2002	2003	2004	2005(a)	2006(b)
GDP (US\$m) (current prices):	368	343	336	340	355	378
GDP PPP (US\$m) (c):	1,707	1,620	1,551	1,621	1,704	1,824
GDP per capita (US\$):	443	398	374	370	378	393
GDP per capita PPP (US\$) (c):	2,056	1,877	1,728	1,765	1,813	1,898
Real GDP growth (% change YOY):	16.6	-6.7	-6.2	1.8	3.2	5.0
Current account balance (US\$m):	49	35	19	131	292	412
Current account balance (% GDP):	13.2	10.2	5.8	40.4	88.3	123.5
Goods exports (% GDP):	1.1	1.7	2.2	2.3	2.3	n.a.
Inflation (% change YOY):	3.6	4.8	7.1	3.3	0.9	2.0

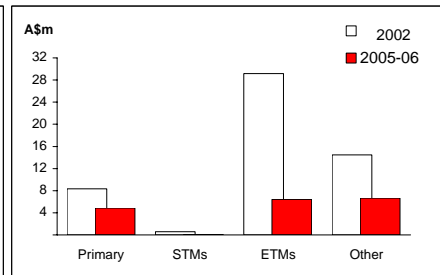
Australia's merchandise trade with East Timor



Real GDP growth



Australia's merchandise exports to East Timor



Australia's trade relationship with East Timor (d):

Australian merchandise trade with East Timor, 2005-06:

Exports to East Timor (A\$m):	18	Total share:	0.0%	Rank:	92nd	Growth (yoy):	-28.6%
Imports from East Timor (A\$m):	1		0.0%		144th		-34.5%
Total trade (exports + imports) (A\$m):	19		0.0%		110th		-28.8%

Major Australian exports*, 2005-06 (A\$m):

Refined petroleum	2
Passenger motor vehicles	1
Non-alcoholic beverages	1
Motor vehicles for transporting goods	1

Major Australian imports, 2005-06 (A\$m):

Coffee and coffee substitutes	408
Crustaceans	86
"Hard" fixed vegetable fats & oils	66
Pearls and gems	22

*Includes A\$6.7m of confidential items and special transactions, 37% of total exports.

Australia's trade in services with East Timor, 2005:

Exports of services to East Timor (A\$m):	n.a.	Total share:	n.a.
Imports of services from East Timor (A\$m):	n.a.		n.a.

East Timor's global merchandise trade relationships:

East Timor's principal export destinations, 2004:

1	Australia	41.7%
2	Japan	22.8%
3	Portugal	12.4%
4	United States	4.1%

East Timor's principal import sources, 2004:

1	Indonesia	42.8%
2	Australia	24.8%
3	Singapore	11.2%
4	Vietnam	3.6%

Compiled by the Market Information and Analysis Section, DFAT, using the latest data from the ABS, the IMF and various international sources.

(a) all recent data subject to revision; (b) IMF forecast; (c) PPP is purchasing power parity. (d) Total may not add due to rounding.

n.a. Data not available.

Other bilateral treaties with East Timor

- Timor Sea Treaty
(Dili, 20 May 2002)
[2003] ATS 13

Entered into force on 2 April 2003

- Agreement with Timor-Leste relating to the Unitisation of the Sunrise and Troubadour Fields (Sunrise IUA)
(Dili, 6 March 2003)
[2003] ATNIF 6

To enter into force when the Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS) enters into force

Australia has no similar treaties with other countries.